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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jerry Gordon Enns ) Patent Application  
Serial No: 10/002,770 ) Group Art Unit: 3635  
Filed : November 15, 2001 ) Examiner: J. Thissell  
For : UTILITY POLE ERECTION ) Date: August 15, 2003

ELECTION WITH TRAVERSE

Mail Stop Non-Fee Amendment  
Commission for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

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GROUP 3600

Sir:

In response to the Office action mailed July 16, 2003, in the above-identified case, the applicant provisionally elects with traverse the claims of Group I, claims 1-10 drawn to a method of erecting utility poles, and a species is elected, with traverse, as defined hereinafter. The election species is species A, Fig. 3.

The requirement for restriction of the Examiner is respectfully traversed on the ground that the claims of Group I covering the method of erecting utility poles and the claims of Group II covering the apparatus for pulling two sections together are so closely related as to not be separate and distinct. The method and apparatus are both used for the same purpose and, indeed, the method uses the claimed apparatus. For example, the claimed apparatus which recites:

"13. Apparatus for pulling two sections of utility pole together. . .

\* \* \*

. . .whereby on an extension stroke the flexible member can be adjusted and on a recitation stroke, the sections are pulled together."

is not independent or distinct from a claim that recites:

"9. A method of erecting a utility pole. . .

\* \* \*

bringing the tubular sections to a site for erecting the telephone pole;

pulling the sections together with short repeated strokes by manually adjusting the portion of a flexible member connecting a tug bracket and a pull arm. . .".

Because the claims are closely related, the searches are interwoven. A search of the method claims of Group I will necessarily encompass a search of the apparatus claims of Group II since the same patents that claim such apparatus could very well disclose the method. Similarly, a search for the apparatus will necessarily encompass a search for the method, since the patent specification will of necessity disclose both the method and the apparatus.

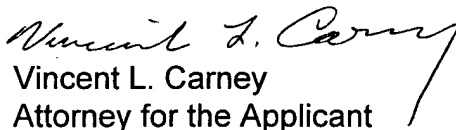
Because the searches are interwoven, it is respectfully submitted that the inventions have not acquired a separate status in the art. It is well known that the classification system of the U.S. Patent and Trademark Office is much more detailed than the actual separate status of fields known in the art.

The claims of the elected invention readable upon the species of FIG. A are claims 1-10.

The election of species is respectfully traversed. Not only are claims 1-10 generic claims but claims 1-10 read not only on species A but also on species B and C. Claims 1-10 only differ by the number of arms and the lifting teeth or tubes. An election of species is only proper when there is no relationship between the different claimed embodiments but in this case the relationships are so close that the claims read on virtually all of the embodiments. The election of species serves no useful purpose in such a situation.

It is respectfully requested, in view of the above comments, that both the election of invention and the election of species be withdrawn.

Respectfully submitted,

  
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--Our Ref: 902-1-1-1